IN THE HIGH COURT OF HIMACHAL PRADESH, SHIMLA

Cr.M.P.(M) No.566 of 2007

Decided on : August 27, 2007

Ichhya Devi ***…Applicant.***

VERSUS

State of Himachal Pradesh ***….Respondent.***

Coram

The Hon'ble Mr.Justice Kuldip Singh, Judge.

Whether approved for reporting?

For the Applicant : Mr. D.P. Chauhan, Advocate.

For the respondent : Mr. M.L. Chauhan, Addl.A.G.

Kuldip Singh, Judge (Oral)

This is an application under Section 439 Cr.P.C. for releasing the petitioner on bail in F.I.R. No.166 of 2007 dated 7.7.2007 under Sections 306 and 498-A I.P.C. registered at Police Station, Jawali, District Kangra, Himachal Pradesh.

2. The facts in brief are that on 7.7.2007 a telephonic message was received from CHC Jawali that one lady has been brought in the hospital for treatment, who has taken poison. On this information, ASI Desh Raj and others reached CHC Jawali but, as per the opinion of the Medical Officer, Sonia alias Sona Devi was not in a position to make statement She was referred to CHC Nurpur, but died on the way. On the statement of Ramesh Kumar under Section 154 of the Code of Criminal Procedure the case was registered. Ramesh Kumar, father of

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Whether the reporters of the local papers may be allowed to see the judgment? Yes.

the deceased has stated that he married his daughter Sonia on 18.2.1999 with Sanjay Kumar son of Kishori Lal, resident of Chalwara. Nothing happened for some time but thereafter the mother-in-law of his daughter started harassing his daughter and started demanding dowry. He has no grievance against his son-in-law Sanjay. In June, 2007 Sonia came in a marriage, which was in his neighbourhood. At that time Sonia told that she was disturbed with the conduct of her mother-in-law Ichhya Devi and she may commit suicide. The applicant earlier filed an application under Section 439 of the Code of Criminal Procedure, which was dismissed by learned Additional Sessions Judge (2), Dharamshala on 27.7.2007.

3. Heard and perused the record.

4. The learned counsel for the applicant has submitted that the applicant has been falsely implicated in the case. No recovery is to be made from the applicant. The learned Additional Advocate General has opposed the bail application. He has submitted that the applicant treated the deceased with cruelty and for that reason the applicant is not entitled to bail. In case she is released on bail she is likely to influence the prosecution witnesses.

5. As per opinion given on the postmortem report of the deceased, the cause of death is phosphide poisoning leading to cardio respiratory failure. The deceased was married on 18.2.1999. The occurrence is dated 7.7.2007. The applicant is in custody since 8.7.2007. There is nothing on record to show that before 7.7.2007 any complaint was lodged with the panchayat or police by the deceased or by her father regarding the conduct of applicant. The father of the deceased has no grievance against his son-in-law. It has come on

record that mother-in-law of the deceased told in the neighbourhood that Sonia had taken some poisonous medicine and she was vomiting.

6. In the facts and circumstances of the case, the application is allowed. The applicant is ordered to be released on bail in FIR No.166 of 2007 dated 7.7.2007, under Sections 306 and 498-A IPC, registered at Police Station Jawali, District Kangra, H.P. subject to her furnishing personal bond in the sum of Rs.20,000/- with one surety in the like amount to the satisfaction of the Judicial Magistrate, Jawali, District Kangra, H.P. The bail, however, is subject to the condition that the applicant shall not tamper with the prosecution witnesses. The observations made in the order shall not be construed as expression of opinion on the merits of the case.

Copy ***dasti,*** on usual terms.

August 27, 2007 ***(Kuldip Singh), J.***
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